

# Exhibit 35

*United States of America ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corp. et al.*  
Civil Action No. 07-10248-PBS

Exhibit to the August 28, 2009 Declaration of James J. Fauci In Opposition To  
Corrected Boehringer Ingelheim Corporation and Boehringer Ingelheim Pharmaceuticals, Inc.  
Local Rule 56.1 Statement of Undisputed Material Facts  
in Support of Their Motion For Summary Judgment

NO. GV3-03079

THE STATE OF TEXAS ) IN THE DISTRICT COURT  
                      )  
ex rel.             )  
VEN-A-CARE OF THE )  
FLORIDA KEYS, INC., )  
Plaintiff(s),      )  
                      )  
VS.                 ) TRAVIS COUNTY, TEXAS  
                      )  
ROXANE LABORATORIES, INC., )  
BOEHRINGER INGELHEIM )  
PHARMACEUTICALS, INC., BEN )  
VENUE LABORATORIES, INC. and )  
BOEHRINGER INGELHEIM )  
CORPORATION,        )  
Defendant(s).      ) 201ST JUDICIAL DISTRICT

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ORAL AND VIDEOTAPED DEPOSITION OF  
DAWN GORDON  
January 25, 2005

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ORAL AND VIDEOTAPED DEPOSITION OF DAWN GORDON,  
produced as a witness at the instance of the  
Plaintiff(s), and duly sworn, was taken in the  
above-styled and numbered cause on the 25th of  
January, 2005, from 9:07 a.m. to 5:18 p.m., before  
CYNTHIA VOHLKEN, CSR in and for the State of Texas,  
reported by machine shorthand, at the Doubletree Club  
Hotel Atlanta Airport, 3400 Norman Berry Drive,  
Atlanta, Georgia, pursuant to the Texas Rules of Civil  
Procedure and the provisions attached previously.

1 A P P E A R A N C E S

2 FOR THE PLAINTIFF(S):

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10 -and-

11 Mr. Joseph V. Crawford  
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15 FOR THE RELATOR:

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20 FOR THE DEFENDANT(S):

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25 -and-

Mr. Paul Coval  
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52 East Gay Street  
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26 ALSO PRESENT:

27 Mr. Sterling Akins  
28 Mr. Richard Rienstra, Videographer

29 \*-\*-\*-\*-\*  
30

1 was a title change.

2 Q. Was it a promotion?

3 A. I suppose to some degree.

4 Q. Did your job responsibilities change?

5 A. No.

6 Q. Who was your supervisor?

7 A. I don't know the exact date, but Bob Sykora  
8 did become a supervisor, my supervisor, after Jerry  
9 Walsh.

10 Q. And you believe he became your supervisor at  
11 the time that your title was national account director  
12 in key accounts; is that correct?

13 A. I don't recall the exact time period.

14 Q. In 1997 did your title change to manager of  
15 national accounts?

16 A. I don't recall the exact time that my title  
17 changed. It started as national account manager and  
18 then it was changed to national account director.

19 Q. And who were you supervised by when you had  
20 those titles?

21 A. At first it was Jerry Walsh and then it was  
22 Bob Sykora. Rich Feldman was also manager.

23 Q. What caused you to leave Roxane and go to  
24 Boehringer Ingelheim Pharmaceuticals, Inc.?

25 A. For a period of time we had responsibility

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1 not only for the Roxane products, but also for the  
2 Boehringer Ingelheim branded products. We were still  
3 technically an employee by Roxane, just had  
4 responsibility for the Boehringer product line as  
5 well. A decision came from management that the  
6 Boehringer Ingelheim Pharmaceuticals, Inc. would have  
7 its own trade relations group. So Roxane would  
8 develop a trade relations group and then BI, BIPPI,  
9 would develop their own trade relations group, which  
10 is when I went over to the BIPPI side.

11 Q. When you said, "We had responsibility," who  
12 were you referring to?

13 A. The other national account directors.

14 Q. That worked at Roxane Labs?

15 A. Correct.

16 Q. During what period of time did you and the  
17 other national account directors at Roxane  
18 Laboratories have responsibility for selling both  
19 Roxane and Boehringer Ingelheim Pharmaceutical  
20 Products, Inc. -- Boehringer Ingelheim  
21 Pharmaceuticals, Inc. products?

22 A. I don't recall the exact date. It was in the  
23 late '90s.

24 Q. And how many years in the late '90s did you  
25 have this dual responsibility?

1 A. Approximately three. Two to three.

2 Q. Two to three years?

3 A. Correct.

4 Q. And were these generic drugs or brand drugs  
5 or both?

6 A. On the BIPPI side it was brand.

7 Q. What about on the Roxane side?

8 A. Primarily generic. There were a few branded  
9 products.

10 Q. Was your position eliminated at Roxane?

11 A. No.

12 Q. Who filled your position?

13 A. Think who took over. Well, Steve Snyder  
14 remained onboard. Debbie Kutner remained onboard. I  
15 don't recall who else remained or was brought as part  
16 of the Roxane team.

17 Q. And Steve and Debbie had essentially the same  
18 title and job responsibility that you had at Roxane  
19 before you left; is that correct?

20 A. Correct.

21 Q. So essentially you were asked by Roxane or  
22 BIPPI to move over to BIPPI?

23 A. We were given an option.

24 Q. Who gave you that option?

25 A. I believe it was Rich Feldman.